



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://cao.co.la.ca.us>

DAVID E. JANSSEN
Chief Administrative Officer

February 10, 2004

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

Board of Supervisors
GLORIA MOLINA
First District

YVONNE BRATHWAITE BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

**USE OF TERMINATION PAY TO PURCHASE
RETIREE PENSION SERVICE CREDITS**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve the accompanying resolution that allows contributions on a pre-tax basis to the pension plan from termination pay (also known as time certificates) for the purchase of qualified retiree service credit(s) when an employee voluntarily signs an irrevocable agreement to do so. These contributions will be designated as employer contributions for tax purposes and will be in lieu of payments that would otherwise be directed to the affected employees as termination pay.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On December 16, 2003, your Board approved a local option measure (AB55) that permits employees to purchase up to five additional years of retirement service credit by making payment to the retirement association, LACERA, for the cost of the credit. Approval of this resolution will allow employees to use termination pay to purchase AB55 service credit. This enhances the economic feasibility of the AB 55 choice since the cost of the purchase would be excluded from the employee's gross income under Section 414(h) (2) of the Internal Revenue Code. This is an employee cost.

Implementation of Strategic Plan Goals

The actions recommended in this letter promote workforce excellence by resolving workplace issues while maintaining financial responsibility.

FISCAL IMPACT/FINANCING

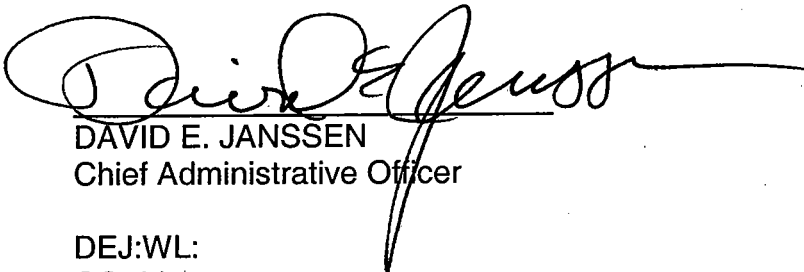
Under the terms of AB 55, the cost to purchase elective retirement service credit is borne in full by the employee. There are no County costs associated with this recommendation other than de minimus costs related to minor systems changes.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

County Counsel has reviewed Section 414 (h) (2) of the Internal Revenue Code and Section 31581.2 of the Government Code (that permits the Board of Supervisors to pick up any portion of contributions required to be paid by an employee) and has determined that upon an irrevocable agreement with the employee, this exclusion from gross income is permissible.

LACERA, Auditor–Controller, and departmental personnel will be working together to administer the irrevocable employee agreement for termination pay.

Respectfully submitted,



DAVID E. JANSSEN
Chief Administrative Officer

DEJ:WL:
CO:rld

Attachments

c: Auditor-Controller
County Counsel

1 **BOARD OF SUPERVISORS**
2 **OF THE COUNTY OF LOS ANGELES**

3
4 **RESOLUTION**

5
6 WHEREAS, Section 414(h)(2) of the Internal Revenue Code ("IRC") permits employee
7 contributions to a governmental pension plan to be "picked up" by the employer -- i.e., although
8 designated under the plan as employee contributions, the contributions are (i) paid by the
9 employer in lieu of the contributions that otherwise would be made by the employee pursuant to
10 a one-time, binding and irrevocable election which precludes the employee from receiving the
11 contributed amounts directly in cash and, (ii) are thus excluded from the gross income of the
12 employee; and
13

14 WHEREAS, in accordance with IRC Section 414(h)(2), Section 31581.2 of the
15 Government Code permits the Board of Supervisors to "pick up" any portion of contributions
16 required to be paid by a member to the Los Angeles County Employees Retirement Association
17 ("the Plan"); and
18

19 WHEREAS, effective February 1, 2004, the Board of Supervisors adopted Sections
20 31485.7 and 31658 of the Government Code authorizing active members of retirement systems
21 in Los Angeles County subject to the County Employees Retirement Law of 1937 to receive up
22 to five (5) years of service credit for additional retirement credit ("ARC") by making a lump sum
23 payment or by making installment payments over a period of up to ten (10) years, subject to
24 specified statutory conditions, to the Plan; and
25

26 WHEREAS, such payment or payments to pay the full cost of ARC are required to be
27 paid by the member; and
28

1 WHEREAS, upon termination of employment, County employees may receive cash in
2 connection with the redemption of unused accumulated vacation, sick leave, annual leave,
3 overtime, holiday time, and other accumulated benefits, as provided under the Los Angeles
4 County Code ("Termination Pay"); and

5
6 NOW THEREFORE, BE IT RESOLVED that a retiring or terminating employee shall be
7 permitted to make an irrevocable election not to receive Termination Pay in cash and in lieu
8 thereof to have the Board of Supervisors pick up and contribute all or a designated portion of the
9 employee's Termination Pay towards ARC as authorized pursuant to Sections 31485.7 and 31658
10 of the Government Code, all as provided herein:

11
12 (a) The employee must elect, by executing a one-time, binding and irrevocable
13 agreement with the County (the "Pick Up Election"), on or before a date that is a specified period
14 (the "Election Period") prior to the employee's retirement or termination from employment
15 (whichever is earlier), to have all or a designated portion of his or her Termination Pay
16 contributed to the Plan as a pick up under IRC Section 414(h)(2);

17
18 (b) For any employee retiring or terminating on or after June 1, 2004, the Election
19 Period is a period that is ninety (90) days prior to the employee's retirement or termination from
20 employment (whichever is earlier);

21
22 (c) For any employee retiring or terminating prior to June 1, 2004, the Election
23 Period is thirty (30) days prior to the employee's retirement or termination from employment
24 (whichever is earlier). This special Election Period is adopted to accommodate, on a one-time
25 only basis, those employees retiring or terminating on or before May 31, 2004, following
26 adoption of Sections 31485.7 and 31658 of the Government Code effective February 1, 2004;

1 (d) The Pick Up Election is not effective if the employee retires or terminates
2 from employment before the applicable Election Period expires;

3
4 (e) The employee contributions of Termination Pay to purchase ARC, although
5 designated as employee contributions, will be paid by the County in lieu of contributions by the
6 employee;

7
8 (f) After executing the Pick Up Election with respect to the pick up of these
9 contributions, the employee may not elect to receive such contributions directly instead of having
10 them paid by the County to the Plan;

11
12 (g) The contribution of Termination Pay must be paid to the Plan within a
13 reasonable period after the employee's retirement or termination from employment, not to exceed
14 thirty (30) days;

15
16 (h) The effective date of the pick up by the County will be the date the applicable
17 Election Period expires following the employee's execution of the Pick Up Election, and the pick
18 up applies only to contributions made after this effective date;

19
20 (i) The Pick Up Election shall state its effective date. Additionally, it shall
21 provide that the employee authorizes the appropriate deduction from Termination Pay for the
22 purposes of having it picked up by the County and paid directly to the Plan, and that the
23 employee understands and acknowledges the following: (1) the Pick Up Election is binding and
24 irrevocable; (2) the employee cannot receive cash in lieu of having the contribution made to the
25 Plan once the Pick Up Election is executed; (3) the Pick Up Election is not effective if the
26 employee retires or terminates before the applicable Election Period expires; and (4) the Plan will
27 not accept direct payments (including pre-payments) to purchase ARC while the Pick Up
28 Election is effective.

1 BE IT FURTHER RESOLVED that, as provided in Section 31581.2 of the Government
2 Code, this resolution shall not create any vested rights in any member under the Plan, and the
3 Board of Supervisors may amend or repeal this resolution at any time.

4
5 I DO HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of the
6 County of Los Angeles on the ____ day of _____, 2004, the foregoing Resolution was
7 adopted.

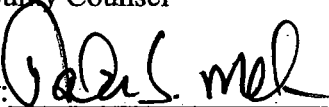
8
9 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Board
10 of Supervisors of the County of Los Angeles this ____, day of _____, 2004.

11
12 VIOLET VARONA-LUKENS
13 Executive Officer-Clerk of the
14 Board of Supervisors
15 of the County of Los Angeles

16 By: _____
Deputy

17 APPROVED AS TO FORM:

18 LLOYD W. PELLMAN
19 County Counsel

20 By: 
21 HALVOR S. MELOM
Principal Deputy